

HOUSE BILL NO. 423

INTRODUCED BY T. DELL

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A BOARD OF COUNTY COMMISSIONERS TO CONSIDER TRANSFERRING COUNTY ROAD MAINTENANCE, RECONSTRUCTION, AND LIABILITY RESPONSIBILITIES TO AN APPROPRIATE STATE OR FEDERAL AGENCY PRIOR TO ROAD ABANDONMENT; REQUIRING A WRITTEN AGREEMENT BETWEEN THE COUNTY AND THE SELECTED AGENCY PRIOR TO ROAD TRANSFER; AND AMENDING SECTION 7-14-2615, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-14-2615, MCA, is amended to read:

"7-14-2615. Abandonment or vacation of county roads -- procedure. (1) All county roads once established must continue to be county roads until abandoned or vacated by:

(a) operation of law;

(b) judgment of a court of competent jurisdiction; or

(c) the order of the board.

(2) An order to abandon a county road is not valid unless preceded by notice and public hearing.

(3) The board may not abandon a county road or right-of-way used to access public land unless another public road or right-of-way provides substantially the same access.

(4) The board may not abandon a county road or right-of-way used to access private land if the access benefits two or more landowners unless all of the landowners agree to the abandonment.

(5) (a) Prior to issuing an order to abandon a county road, the board may consider transferring the liability, maintenance, and reconstruction responsibilities of the road to an appropriate state or federal agency.

(b) If the board determines that any number of state or federal agencies may have an interest in assuming the responsibilities for the county road that the board is planning to abandon, the board shall contact the agencies in writing and allow 30 days for response.

(c) If more than one agency responds STATING THAT IT IS WILLING TO ASSUME RESPONSIBILITY FOR THE ROAD SUBJECT TO THE PROVISIONS OF SUBSECTION (6), the board may select the agency that it determines is

1 the most appropriate to assume the liability, maintenance, and reconstruction responsibilities of the road.

2 (d) At the public hearing required in subsection (2), the board shall, upon request, report the details
3 of its compliance with subsections (5)(a) through (5)(c).

4 (6) PRIOR TO THE TRANSFER OF A ROAD UNDER THIS SECTION, THE COUNTY AND THE SELECTED AGENCY SHALL
5 ENTER INTO A WRITTEN AGREEMENT PROVIDING THAT IN THE EVENT THE SELECTED AGENCY FAILS TO MAINTAIN OR ASSUME
6 LIABILITY FOR THE ROAD OR TO FULFILL ANY OTHER RESPONSIBILITIES PURSUANT TO THE AGREEMENT, THE ROAD MUST
7 REVERT TO THE COUNTY AND WILL BE, UPON REVERSION, CONSIDERED ABANDONED. AT THAT TIME, THE ROAD
8 RIGHT-OF-WAY MUST REVERT TO THE ADJOINING LANDOWNERS AS PROVIDED BY LAW. THE AGREEMENT MUST ALSO
9 PROVIDE THAT THE SELECTED AGENCY WILL NOT SUBSTANTIALLY INCREASE THE SCOPE OF THE USE OF THE RIGHT-OF-WAY
10 AFTER TRANSFER OF THE ROAD."

11 - END -